

BOARD OF ENVIRONMENTAL REVIEW
AGENDA ITEM
EXECUTIVE SUMMARY FOR ACTION ON RULE INITIATION

Agenda # III. A. 2.

Agenda Item Summary: In response to a request from the Board, the Department worked with interested parties in preparing a draft air quality rule that would allow the maintenance of air pollution control equipment while a primary aluminum reduction plant is operating, without requiring the plant to receive a variance from the Board before each period of maintenance.

List of Affected Rules: The new rule would be codified as part of the air quality rules in ARM Title 17, chapter 8. The rule would affect compliance with numerous air quality rules, including: ARM 17.8.111, which prohibits circumvention of pollution control equipment; ARM 17.8.302 and 342, which adopt and incorporate by reference the National Emission Standards for Hazardous Air Pollutants (NESHAPS) and Maximum Achievable Control Technology (MACT) standards for primary aluminum reduction plants; ARM 17.8.304, which specifies general limits on visible emissions from most air pollutant sources; ARM 17.8.331, the fluoride standard for existing aluminum plants; ARM 17.8.332, the visible emission standard for existing aluminum plants; and ARM 17.8.715(2), which requires operation of all equipment for the maximum air pollution control for which it was designed.

Affected Parties Summary: New Rule I would affect the Columbia Falls Aluminum Company, Columbia Falls, MT.

Scope of Proposed Proceeding: Board consideration of initiation of rulemaking to take testimony concerning the proposed adoption of New Rule I and submission of the new rule to the U.S. Environmental Protection Agency (EPA) for approval as a revision to the air quality State Implementation Plan (SIP).

Background: In a letter to the Board dated August 7, 2000, regarding Columbia Falls Aluminum Company's (CFAC's) request for a temporary variance from air quality rules to conduct maintenance on air pollution control equipment while continuing operation of the plant, CFAC requested that the Department "look into developing a regulation that would allow CFAC to legally maintain its aluminum plant air pollution control equipment."

Several states have such rules. The draft rule prepared by the Department was modeled on the Oregon paradigm. In preparing this draft, Department staff worked with representatives of CFAC, a representative of the Montana Environmental Information Center, and the Board's attorneys, Kelly O'Sullivan and Thomas Bowe.

New Rule I would state that the Department may not initiate an enforcement action for a violation of any applicable emission standard for necessary scheduled air pollution

control equipment maintenance if the maintenance event is conducted during the month of September during specified hours (due to computer modeling demonstrating that, during that time, PM-10 emissions would not cause an exceedance of the 150 :g/m³ ambient air quality standard), the facility submitted a maintenance plan that the Department approved, and the facility complied with the requirements of the approved maintenance plan.

The proposed rule would protect state and federal ambient air quality standards by stating that: "Nothing in this rule shall be construed to allow an owner or operator to cause or contribute to violations of any federal or state ambient air quality standard."

Hearing Information: EPA regulations require a public hearing to take comment on adoption of proposed revisions to the SIP. Proposed New Rule I would be submitted to EPA as a proposed SIP revision. The Board may appoint a presiding officer and conduct a public hearing to take comment on the proposed adoption of New Rule I and inclusion of New Rule I in the SIP.

Board Options: The Board may:

1. Initiate rulemaking by issuing the attached Notice of Public Hearing on Proposed Adoption;
2. Modify the Notice and initiate rulemaking; or
3. Determine that adoption of the rule is not appropriate and decline to initiate rulemaking.

DEQ Recommendation: The Department recommends that the Board appoint a presiding officer, initiate rulemaking by publishing the attached Notice of Public Hearing on Proposed Adoption in the Montana Administrative Register, and conduct a public hearing to take testimony on the proposed adoption of New Rule I and submission of the new rule to EPA as a proposed revision to the SIP.

Enclosure: Draft Notice of Public Hearing on Proposed Adoption.